?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

%DATED: 29.10.2018

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

+W.P.(MD)Nos.18606 of 2018,
18802, 20487, 20259, 20948,
18917, 18428, 18429, 18958 of
2018
and
16754, 16305, 16306 and 16782 of 2018

In W.P.(MD).No.18606 of 2018:

#R.A.Durai .. Petitioner

~vs~

$1.The Sub Collector,
I Class Administrative Magistrate,
Devakottai,
Sivagangai District.

2.The Inspector of Police,
Nerkuppai Police Station,
Sivagangai District. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to release the petitioner-s tipper Lorry bearing Registration No.TN 28 AH 8242 within the time stipulated by this Court.

!For Petitioner : Mr.Babu Rajendran

^For Respondents : Mr.B.Pugalendhi
Additional Advocate General
assisted by Mr.A.K.Baskarapandian
Special Government Pleader

:COMMON ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

Since the issue involved in these cases is one and the same, these cases are disposed of by way of a common order.

2.These writ petitions have been filed seeking direction to the concerned respondent to release the respective petitioner-s vehicles.

3.Heard the learned counsel appearing for the petitioners and the learned Additional Advocate General appearing for the respective respondents.

4.According to the petitioners, the official respondents seized the vehicles in question on the ground of illegal transportation of sand and till date no order has been passed by the respondents concerned. Hence, these writ petitions have been filed.
5.On the other hand, it is submitted by the learned Additional Advocate General appearing for the respective respondents that the vehicles in question were used for illegal transportation of mines and minerals like sand, gravel etc., and hence they were seized.

6.In any event, as the vehicles are under the custody of the respondents from the date of seizure and considering the fact that if the same are allowed to be kept idle by exposing the same to sun and rain, it would certainly diminish their value. Therefore, this Court is of the view that the vehicles may be released by imposing conditions on the petitioners.

7.Accordingly, the concerned respondents are directed to release the vehicles in question to the petitioners within a period of 7 days from the date of receipt of a copy of this order, subject to the following conditions:

?(i) The petitioners shall produce necessary documents before the respondents to establish the ownership of the vehicles in question;

(ii) Each petitioner is directed to deposit a sum of Rs.50,000/~ (Rupees Fifty Thousand only), before the Tahsildar concerned as non refundable deposit;
(iii) The petitioners shall give an undertaking that they will not use the vehicles for any illegal activities in future and shall produce the same as and when required by the respondents;
(iv) On doing so, the vehicles in question shall be returned to the petitioners;
(v) The petitioners shall not alienate the vehicles in question till the disposal of the proceedings before the authority concerned; and
(vi) The petitioners are also directed to participate in the enquiry to be conducted by the respondents.?

8.The Tahsildar concerned is further directed to file a private complaint in terms of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, before the jurisdictional Court. This will have to be done within a period of one week from the date of receipt of a copy of this order.

9.We make it clear that this order is passed only on the ground that a final order will have to be passed on the larger issue with respect to the maintainability of the writ petitions before this Court vis~a~vis, the

right of the revenue officials in realizing and adjudicating such reliefs by exercising power under Rule 36 as against Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, and therefore, this order cannot be taken as a precedent.

10.Further we direct the petitioners to produce their respective vehicles before the trial Court as and when required, failing which, the Court is at liberty to confiscate the same.

11.Similarly, the same observation will apply to those cases, where First Information Reports have been registered by the jurisdictional police for the offence under Section 379 IPC., in which case, the vehicles will have be produced before the jurisdictional Magistrate. In such cases, the jurisdictional Tahsildars, on receipt of the same shall file private complaints for the alleged violation under the Mines and Minerals (Development and Regulation) Act, 1957. The police concerned will have to give such due intimation, within a period of one week from the date of receipt of a copy of this order.

12.We further make it clear that the order is only for release of vehicles and not for releasing of the mines and minerals transported illicitly.

13.After receipt of the above said amount, the same will have to be deposited by the Tahsildar concerned, to the credit of the District Mines and Minerals Foundation Trust as non refundable deposit.

14.With the above observations and directions, these writ petitions are disposed of. No Costs. Consequently, WMP(MD)Nos.16754, 16305, 16306 and 16782 of 2018 are closed.

To

1.The Sub Collector,
I Class Administrative Magistrate,
Devakottai,
Sivagangai District.

2.The Inspector of Police,
Nerkuppai Police Station,
Sivagangai District.